

SENATE BILL NO. 289

INTRODUCED BY J. TESTER, DOHERTY, EKEGREN, FRANKLIN, GALVIN-HALCRO, GOLIE,
HARGROVE, LEE, MANGAN, MCKENNEY, RIPLEY, ROUSH, RYAN, SCHMIDT, TROPILA, WHITAKER,
CALLAHAN

A BILL FOR AN ACT ENTITLED: "~~AN ACT PROVIDING THAT CURRENT MONTANA AIR NATIONAL~~
~~GUARD FIREFIGHTERS WHO ARE MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM MAY~~
~~TRANSFER TO THE FIREFIGHTERS' UNIFIED RETIREMENT SYSTEM;~~ PROVIDING THAT ALL NEW
NATIONAL GUARD FIREFIGHTERS MUST BE COVERED BY THE FIREFIGHTERS' UNIFIED RETIREMENT
SYSTEM; AMENDING SECTIONS 19-13-104, 19-13-210, 19-13-212, 19-13-605, 19-13-805, AND
19-13-1007, MCA; AND PROVIDING EFFECTIVE DATES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 19-13-104, MCA, is amended to read:

"19-13-104. Definitions. Unless the context requires otherwise, the following definitions apply
in this chapter:

(1) Any reference to "city" or "town" includes those jurisdictions that, before the effective date
of a county-municipal consolidation, were incorporated municipalities, subsequent districts created for
urban firefighting services, or the entire county included in the county-municipal consolidation.

(2) "Compensation" means:

(a) for a full-paid firefighter, the regular remuneration, excluding overtime, holiday payments, shift
differential payments, compensatory time payments, and payments in lieu of sick leave, paid for the
firefighter's service as a firefighter out of funds controlled by an employer before any pretax deductions
allowed under the Internal Revenue Code have been made;

(b) for a part-paid firefighter employed by a city of the second class:

(i) 15% of the regular remuneration, excluding overtime, holiday payments, shift differential
payments, compensatory time payments, and payments in lieu of sick leave, paid on July 1 of each year
to a newly confirmed, full-paid firefighter of the city that employs the part-paid firefighter; or

(ii) if that city does not employ a full-paid firefighter, 15% of the average regular remuneration,

1 excluding overtime, holiday payments, shift differential payments, compensatory time payments, and
2 payments in lieu of sick leave, paid on July 1 of each year to all newly confirmed, full-paid firefighters
3 employed by cities of the second class.

4 (3) "Dependent child" means a child of a deceased member who is:

5 (a) unmarried and under ~~age~~ 18 years of age; or

6 (b) unmarried, under ~~age~~ 24 years of age, and attending an accredited postsecondary educational
7 institution as a full-time student in anticipation of receiving a certificate or degree.

8 (4) "Employer" means any city that is of the first or second class or that elects to join this
9 retirement system under 19-13-211 or, with respect to firefighters covered in the retirement system
10 pursuant to 19-13-210(2), the department of military affairs established in 2-15-1201.

11 (5) "Final average compensation" means the monthly compensation of a member averaged over
12 the last 36 months of the member's active service or, if the member has not been a member that long,
13 over the period of the member's service. Lump-sum payments for annual leave paid to the member upon
14 termination of service may be used to replace, on a month-for-month basis, the normal compensation for
15 a month or months included in the calculation of final average compensation.

16 (6) "Firefighter" means a person employed as a full-paid or part-paid firefighter by an employer.

17 (7) "Full-paid firefighter" means a person appointed as a firefighter under 7-33-4106.

18 (8) "Minimum retirement date" means the first day of the month coinciding with or immediately
19 following, if none coincides, the date on which a member becomes both age 50 or older and completes
20 5 or more years of membership service.

21 (9) "Part-paid firefighter" means a person employed under 7-33-4109 who receives compensation
22 in excess of \$300 a year for service as a firefighter.

23 (10) "Prior plan" means the fire department relief association plan of a city that elects to join the
24 retirement system under 19-13-211 or the fire department relief association plan of a city of the first or
25 second class.

26 (11) "Retirement date" means the date on which the first payment of benefits is payable.

27 (12) "Retirement system" means the firefighters' unified retirement system provided for in this
28 chapter.

29 (13) "Surviving spouse" means the spouse married to a member at the time of the member's
30 death."

1
2 **Section 2.** Section 19-13-210, MCA, is amended to read:

3 **"19-13-210. Participation in retirement system by first- and second-class cities.** (1) Cities of the
4 first and second class that employ full-paid firefighters shall participate in the retirement system. If a city
5 of the first or second class is reduced to a city of the third class or a town under 7-1-4118, it shall
6 continue to participate in the retirement system as long as it has retired firefighters or survivors eligible
7 to receive retirement benefits.

8 (2) ~~(a) Firefighters hired by the Montana air national guard on or after October 1, 2001, OR ON OR~~
9 ~~AFTER [THE EFFECTIVE DATE OF THIS ACT], WHICHEVER IS LATER, shall participate in the retirement system.~~

10 ~~—— (b) A Montana air national guard firefighter who is a member of the public employees' retirement~~
11 ~~system before October 1, 2001, may elect to become a member of the firefighters' unified retirement~~
12 ~~system by filing a written election with the board during September 2001. An election pursuant to this~~
13 ~~subsection (2)(b) is effective on the first day of the first full pay period after November 1, 2001. Failure~~
14 ~~to make an election pursuant to this subsection (2)(b) must be considered an election to remain in the~~
15 ~~public employees' retirement system.~~

16 ~~—— (c) A firefighter who elects to become a member of the firefighters' unified retirement system~~
17 ~~pursuant to subsection (2)(b) may transfer the member's service in the public employees' retirement~~
18 ~~system under the provisions of 19-13-404."~~

19
20 **Section 3.** Section 19-13-212, MCA, is amended to read:

21 **"19-13-212. Termination of participation in retirement system or reduction of employer**
22 **contributions.** (1) If ~~a city~~ an employer voluntarily terminates its contributions in the retirement system or
23 significantly reduces the number of full-paid firefighters it employs to a degree that, in the board's opinion,
24 inadequately funds the accrued or accruing benefits of retirement system members, the board shall request
25 as part of the required actuarial valuation an actuarial investigation of the funding status of the ~~city~~
26 employer.

27 (2) Based on the actuarial investigation, the board may request and the ~~city~~ employer shall pay
28 annually the amount determined to be necessary to provide adequate funding for the liabilities of the ~~city~~
29 employer. This amount must be in addition to any other contributions required by the retirement act.

30 (3) Six years after the actuarial investigation is conducted, ~~a city~~ an employer making payments

1 as provided in subsection (2) may request the board to review the ~~city's employer's~~ funding status relative
2 to the annual payments. As a result of the review, the board may adjust the payments."

3

4 **Section 4.** Section 19-13-605, MCA, is amended to read:

5 **"19-13-605. Employer contribution.** Each employer shall make its contribution on behalf of
6 members through the city treasurer or other appropriate official from money available ~~to the city~~ for this
7 purpose. The employer's contribution is 14.36% of the total compensation paid to members. All
8 contributions are payable monthly to the board, which shall, as soon as practicable after their receipt,
9 deposit them in the pension trust fund."

10

11 **Section 5.** Section 19-13-805, MCA, is amended to read:

12 **"19-13-805. Reinstatement upon termination of benefit.** (1) (a) Except as provided in subsection
13 (1)(c), a member whose disability retirement benefit is canceled as provided in 19-13-804 must be
14 reinstated to the position held by the member immediately before the member's retirement or to a position
15 in a comparable pay and benefit category with duties within the member's capacity if an appropriate
16 vacancy exists within the member's fire department. The board shall advise the employer that the disability
17 retirement benefit has been canceled and that the inactive member is eligible for reinstatement to duty.
18 The fact that the member was retired for disability may not prejudice any right to reinstatement to duty
19 that the inactive member may have or claim to have.

20 (b) If an appropriate vacancy does not exist within an inactive member's fire department when
21 the member's disability benefit is canceled under 19-13-804, the member's benefit must be reinstated until
22 a vacancy occurs.

23 (c) This section does not affect any requirement that the former employee meet or be able to meet
24 professional certification and licensing standards unrelated to the disability and necessary for
25 reinstatement.

26 (2) The ~~city employer~~ may request a medical or psychological review as to the ability of the
27 member to return to work as a firefighter. If the board's findings are upheld, the ~~city employer~~ shall pay
28 the costs of the review.

29 (3) If the inactive member again becomes an active member by returning to active work for an
30 employer within 30 days following receipt of notice under 19-13-804, the member is considered to have

1 been continuously employed during the term of the member's disability. If the inactive member fails to
2 become an active member by returning to active work for an employer within 30 days following receipt
3 of this notice, the member's termination of employment is considered to have occurred as of the member's
4 disability retirement date and the retirement benefit, if any, to which the member becomes entitled on the
5 member's service retirement must be determined accordingly."

6
7 **Section 6.** Section 19-13-1007, MCA, is amended to read:

8 **"19-13-1007. Minimum benefit adjustment.** (1) The following applies to a member with 10 or
9 more years of service who has not elected to be covered under 19-13-1010:

10 (a) For the member or the member's surviving spouse or dependent children, the service retirement
11 benefit provided in 19-13-704, the disability retirement benefit provided in 19-13-803, and the
12 survivorship benefit provided in 19-13-902 may not be less than one-half the monthly compensation paid
13 to a newly confirmed, active firefighter of ~~a city~~ the employer that last employed the member as a
14 firefighter, as provided each year in the budget of that ~~city~~ employer.

15 (b) If after a member retires, the ~~city~~ employer that last employed the member no longer employs
16 a full-paid firefighter, the member's or survivor's benefit under subsection (1)(a) must be adjusted on the
17 basis of the average monthly compensation paid to all newly confirmed full-paid firefighters, as provided
18 each year in the budgets of those ~~cities~~ employers that participate in the retirement system and employ
19 a full-paid firefighter.

20 (2) If the employment of a vested member hired before July 1, 1981, who has not elected to be
21 covered under 19-13-1010 is involuntarily discontinued because of the termination of employment of all
22 full-paid firefighters ~~in~~ of the ~~city~~ employer that employed the member, the member's service retirement
23 benefit provided in 19-13-704 and the member's spouse's or dependent child's survivorship benefit
24 provided in 19-13-902(1) may not be less than:

25 (a) if the member has earned 20 years or more of membership service, one-half the average
26 monthly compensation paid to all newly confirmed, full-paid firefighters, as provided each year in the
27 budgets of those ~~cities~~ employers that participate in the retirement system and employ a full-paid
28 firefighter; or

29 (b) if the member has earned more than 5 but less than 20 years of membership service, 2.5%
30 of the average monthly compensation paid to all newly confirmed, full-paid firefighters, as provided each

1 year in the budgets of those ~~cities~~ employers that participate in the retirement system and employ a full-paid firefighter, for each year of the member's service."

3

4 NEW SECTION. Section 7. ~~Effective date -- contingent~~ CONTINGENT effective date. (1) ~~Except as~~
5 ~~provided in subsection (2), [this [THIS act] is effective July 1, 2001.~~

6 ~~----- (2) 19-13-210(2)(b) and (2)(c) are effective~~ contingent on the execution of an agreement between
7 the department of military affairs and the public employees' retirement board establishing that employer
8 contributions for all firefighters hired by the Montana air national guard ~~on or after October 1, 2001, under~~
9 ~~the provisions of 19-13-210(2)(a) and for those firefighters who elect to join the firefighters' unified~~
10 ~~retirement system in accordance with 19-13-210(2)(b) and (2)(c), PURSUANT TO [SECTION 2]~~ will be paid with
11 federal funds passed through the department of military affairs and remitted to the firefighters' unified
12 retirement system in a manner prescribed by the public employees' retirement board. The board shall
13 notify the secretary of state and the code commissioner when this contingency is met.

14

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